

<b>UTILITY PATENT APPLICATION TRANSMITTAL</b> (New Nonprovisional Application Under 37 CFR § 1.53(b))	Attorney Docket No. 50325-0827
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17858 U.S. PTO  
10/714192  
111403

**TO THE COMMISSIONER FOR PATENTS:**

Transmitted herewith is the patent application of ( ) application identifier or (X) first named inventor, Cosmin Dini, et al., entitled METHOD AND APPARATUS FOR MEASURING THE AVAILABILITY OF A NETWORK ELEMENT OR SERVICE, for a(n):

- (X) Original Patent Application.
- ( ) Continuing Application (prior application not abandoned):
- ( ) Continuation ( ) Divisional ( ) Continuation-in-part (CIP)  
 of prior application No: \_\_\_\_\_ Filed on: \_\_\_\_\_
- ( ) A statement claiming priority under 35 USC § 120 has been added to the specification.

Enclosed are:

- (X) Specification 32 Total Pages; (X) Drawing(s) 5 Total Sheets; (X) Cover Sheet 1 Page
- (X) Oath or Declaration: 8 Pages
- (X) A Newly Executed Combined Declaration and Power of Attorney:
- (X) Signed. ( ) Unsigned. ( ) Partially Signed.
- ( ) A Copy from a Prior Application for Continuation/Divisional (37 CFR § 1.63(d)).
- ( ) Incorporation by Reference. The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied, is considered as being part of the disclosure of the accompanying application and is hereby incorporated herein by reference in its entirety for all purposes.
- ( ) Signed Statement Deleting Inventor(s) Named in the Prior Application. (37 CFR § 163(d)(2)).
- ( ) Power of Attorney. (X) Return Receipt Postcard.
- ( ) Associate Power of Attorney. (X) A Check in the amount of \$ 1,414.00 for the Filing Fee.
- ( ) Preliminary Amendment. ( ) Information Disclosure Statement and Form PTO-1449.
- (X) Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i)
- (X) A Duplicate Copy of this Form for Processing any Deficiency of Overpayment of Fee Against Deposit Account.
- ( ) A Certified Copy of Priority Documents (if foreign priority is claimed).
- ( ) Applicant(s) is entitled to small entity status. See 37 CFR 1.27.
- ( ) Statement(s) of Status as a Small Entity Filed in Prior Application, Status Still Proper and Desired.
- (X) Recordation of Assignment Cover Sheet and **executed** Assignment.
- ( ) Other: \_\_\_\_\_

CLAIMS AS FILED				
FOR	NO. FILED	NO. EXTRA	RATE	FEE
Total Claims	44	24	\$18.00	\$ 432.00
Independent Claims	5	2	\$86.00	\$ 172.00
Multiple Dependent Claims (if applicable)				\$ 0.00
Assignment Recording Fee				\$ 40.00
Basic Filing Fee				\$ 770.00
Total Filing Fee				\$ 1,414.00

Charge \$ \_\_\_\_\_ to Deposit Account \_\_\_\_\_ pursuant to 37 CFR § 1.25. **Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to deposit account 50-1302. A duplicate of this sheet is enclosed.**

Respectfully submitted,

By:

Christian A. Nicholes  
 Christian A. Nicholes  
 Attorney of Record, Reg. No. 50,266

Date: November 14, 2003

Correspondence Address:

CUSTOMER CODE

**29989**

PATENT TRADEMARK OFFICE

Express Mail Label No.: EV323350966US

Date of Deposit: November 14, 2003

# FEE TRANSMITTAL for FY 2003

Patent fees are subject to annual revision,  
Small Entity payments must be supported by a small entity statement,  
otherwise large entity fees must be paid. See Forms PTO/SB/09-12  
See 37 C.F.R. §§ 1.27 AND 1.28

TOTAL AMOUNT OF PAYMENT (\$ 1,414.00)

## Complete if Known

Application Number	Not Yet Assigned
Filing Date	Herewith
First Named Inventor	Cosmin Dini
Examiner Name	Not Yet Assigned
Group/Art Unit	Not Yet Assigned
Attorney Docket No.	50325-0827

## METHOD OF PAYMENT (check one)

1. ☒ Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to deposit account 50-1302. A duplicate of this sheet is enclosed.

Deposit  
Account  
Number

50-1302

Deposit  
Account  
Name

Hickman Palermo Truong & Becker, LLP

2. ☒ Payment Enclosed:

☒ Check ☐ Money Order ☐ Other

3. ☐ Applicant(s) is entitled to small entity status.  
See 37 CFR 1.27

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity Fee Code	Fee (\$)	Small Entity Fee Code	Fee (\$)	Fee Description	Fee Paid
1001	750	2001	375	Utility filing fee	770.00
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$ 770.00)

### 2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from Below	Fee Paid
44	-20**= 24	18.00	432.00
5	-3**= 2	86.00	172.00
Multiple Dependent			

\*\*or number previously paid, if greater; For Reissues, see below

Large Entity Fee Code	Fee (\$)	Small Entity Fee Code	Fee (\$)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	**Reissue independent claims over original patent
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 604.00)

## FEE CALCULATION (continued)

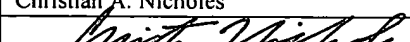
### 3. ADDITIONAL FEES

Large Entity Fee Code	Fee (\$)	Small Entity Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Petitions related to provisional applications	
1806	180	1806	180	Submission of information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	40.00
1809	750	2809	375	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify)					
Other fee (specify)					

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 40.00)

## SUBMITTED BY

Name (Print/Type)	Christian A. Nicholes	Registration No. (Attorney/Agent)	50,266	Telephone	(408) 414-1080
Signature		Date	November 14, 2003		

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

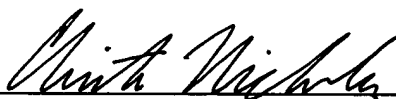
Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Express Mail No. EV323350966US

<b>REQUEST AND CERTIFICATION UNDER 35 U.S.C. 122(b)(2)(B)(i)</b>	First Named Inventor	Cosmin Dini
	Title	METHOD AND APPARATUS FOR MEASURING THE AVAILABILITY OF A NETWORK ELEMENT OR SERVICE
	Atty. Docket Number	50325-0827

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

November 14, 2003

  
 Christian A. Nicholes  
 Reg. No. 50,266

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this non-publication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(a). The information is used by the public to request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that request). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Box Patent Applications, Commissioner for Patents, Washington, DC 20231